

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JESSE JAMES DELYLE COX,

Plaintiff,

vs.

No. CV 19-00690 RB/KBM

BERNALILLO COUNTY, ALBUQUERQUE  
POLICE DEPARTMENT, DISTRICT ATTORNEYS  
OFFICE, HOME DEPOT, LOVES TRUCK STOP,  
MCINTOSH COUNTY OKLAHOMA, LUNA CTY,  
WALGREENS,

Defendants.

**MEMORANDUM OPINION AND ORDER OF DISMISSAL**

**THIS MATTER** is before the Court *sua sponte* under Federal Rule of Civil Procedure 41(b) on the Complaint for a Civil Case filed by Plaintiff Jesse James Delyle Cox. (Doc. 3.) The Court will dismiss the Complaint without prejudice for failure to comply with Court orders and failure to prosecute.

Mr. Cox filed his civil rights Complaint on July 26, 2019. (*See id.*) Cox did not pay the filing fee, but he did submit an application to proceed *in forma pauperis* under 28 U.S.C. § 1915 at the time he instituted this proceeding. (*See Doc. 2.*) The application did not include the required certified copy of his inmate account statement. On January 13, 2020, the Court entered an Order to Cure Deficiency, ordering Cox to submit a certified copy of his inmate account statement for the six-month period immediately preceding this filing. (Doc. 4 at 1.) The Order notified Cox that if he failed to comply with the Court's Order, the case could be dismissed without further notice. (*Id.*) Mr. Cox did not submit the requisite six-month inmate account statement within 30 days as

ordered by the Court. Instead, Cox sent a letter to the Court, terming the Court's Order "absurd."  
(Doc. 5 at 1.)

On February 18, 2020, the Court entered an Order to Show Cause directing Mr. Cox to show cause within 30 days why this case should not be dismissed for failure to comply with the Court's January 13, 2020 Order and to prosecute this action. (Doc. 6.) The Order to Show Cause notified Mr. Cox that if he did not submit a timely response to the Court's Order, this proceeding could be dismissed without further notice. (*Id.* at 2.) More than 30 days has elapsed since entry of the Court's Order to Show Cause, and Mr. Cox has not responded to the Order or communicated with the Court.

Section 1915(b) provides:

A prisoner seeking to bring a civil action or appeal a judgment in a civil action or proceeding without prepayment of fees or security therefor, in addition to filing the affidavit filed under paragraph (1), ***shall submit a certified copy of the trust fund account statement (or institutional equivalent) for the prisoner for the 6-month period immediately preceding the filing of the complaint*** or notice of appeal . . . .

28 U.S.C. § 1915(a)(2) (emphasis added). The Court has entered two Orders directing Mr. Cox to submit the required account statement or show cause why he should be excused from doing so. (Docs. 4; 6.) The time for him to respond has expired and he has not submitted the required account statement, has not responded to the February 18, 2020 Order to Show Cause, and has not communicated with the Court.

Pro se litigants are required to follow the federal statutes, rules of procedure, and simple, nonburdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). Mr. Cox has failed to comply with Court orders and failed to prosecute this action by not submitting the six-month inmate account statement required by 28 U.S.C. § 1915(b). The Court may dismiss an action under Rule 41(b) for failure to prosecute, to comply with the rules of civil procedure, or

to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003). Therefore, the Court will deny the Application to Proceed (Doc. 2) and will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Orders and failure to prosecute this proceeding.

**IT IS THEREFORE ORDERED**

(1) The Application to Proceed in the District Court Without Prepaying Fees or Costs filed by Plaintiff Jesse James Delyle Cox (Doc. 2) is **DENIED**; and

(2) the Complaint for a Civil Case filed by Plaintiff Jesse James Delyle Cox (Doc. 3) is **DISMISSED** without prejudice under Rule 41(b) for failure to comply with Court orders and failure to prosecute.

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*Robert C. Brack*  
ROBERT C. BRACK  
SENIOR U.S. DISTRICT JUDGE